

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4020 of 1998

WITH

SPECIAL CIVIL APPLICATION NOS.4021, 4023 & 4025 OF 1998

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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MOHINIBEN UTTAMCHAND LUHANA

Versus

STATE OF GUJARAT

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Appearance:

MR HARIN P RAVAL for Petitioners

MR MUKESH PATEL, AGP, for Respondent No. 1 to 3

NOTICE SERVED BY DS for Respondent No. 4 and 5

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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 12/08/1999

ORAL JUDGEMENT

1. These petitions raise common questions of law and fact which, however, can be dealt with along the lines of an earlier decision of M.S. Parikh J. dated 30th December 1998 in Special Civil Application No.8436/97 to

2. Accordingly by consent the following order is passed.

3. The petitioners in respective petitions have challenged the order dated 13.8.1993 - Annexure-H passed by the District Collector, Panchmahals at Godhra upon application of the respondent no.5. The said order was carried in appeal before the respondent no.2 Additional Chief Secretary (Appeals), Revenue Department, who by his order dated 18.11.1995 - Annexure-K has confirmed the order of the Collector.

4. It has been contended on behalf of the petitioners that in none of the proceedings either before the Collector or before the Appellate Authorities, the petitioners were party and though both the impugned orders affect the rights of the petitioners, they have not been heard and no notice is issued.

5. Hence, in view of the above position, the following order is passed:

- (i) The orders at Annexure-H dated 13.8.1993 and Annexure-K dated 18.11.1995 passed by respondent no.3 - Collector or respondent no.2 Additional Chief Secretary (Appeals), Revenue Department, State of Gujarat dated 10-4/5-1990 are quashed and set aside.
- (ii) Liberty is reserved to the respondent no.3 to initiate fresh proceedings in the matter.
- (iii) In case fresh proceedings are initiated, the respondent no.3- Collector shall issue notice to the petitioners and all other interested parties and shall give an opportunity of hearing to all concerned before taking a decision in the matters.
- (iv) It will also be open for the respondent no.5 to apply for being heard in the matter, if fresh proceedings are initiated.

6. These petitions are accordingly disposed of as directed hereinabove and the Rule is partly made absolute to the aforesaid extent. No order as to costs.

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